

SUBCHAPTER III—ACQUISITION OF LAND
AND MATERIALS

**§ 591. Condemnation, purchase, and donation of
land and materials**

The Secretary of the Army may cause proceedings to be instituted, in the name of the United States, in any court having jurisdiction of such proceedings, for the acquirement by condemnation of any land, right-of-way, or material needed to enable him to maintain, operate, or prosecute works for the improvement of rivers and harbors for which provision has been made by law; such proceedings to be prosecuted in accordance with the laws relating to suits for the condemnation of property of the States wherein the proceedings may be instituted: *Provided, however,* That when the owner of such land, right-of-way, or material shall fix a price for the same, which in the opinion of the Secretary of the Army, shall be reasonable, he may purchase the same at such price without further delay: And provided further, That the Secretary of the Army is authorized to accept donations of lands or materials required for the maintenance or prosecution of such works.

(Apr. 24, 1888, ch. 194, 25 Stat. 94; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

**§ 592. Condemnation of land in aid of person,
company, corporation, municipal or private**

Whenever any person, company, or corporation, municipal or private, shall undertake to secure any land or easement therein needed in connection with a work of river and harbor improvement duly authorized by Congress, for the purpose of conveying the same to the United States free of cost, or for the purpose of constructing, maintaining, and operating locks, dry docks, or other works to be conveyed to the United States free of cost, and of constructing, maintaining and operating dams for use in connection therewith, and shall be unable for any reason to obtain the same by purchase and acquire a valid title thereto, the Secretary of the Army may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of the Army: *Provided,* That all expenses of said proceedings and any award that may be made thereunder shall be paid by the said person, company, or corporation, to secure which payment the Secretary of the Army may require the said person, company, or corporation to execute a proper bond in such amount as he may deem necessary before said proceedings are commenced.

(May 16, 1906, ch. 2465, 34 Stat. 196; June 29, 1906, ch. 3628, 34 Stat. 632; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Act May 16, 1906, as originally enacted, provided that: "Whenever any person, company, or corporation, municipal or private, shall undertake to secure, for the purpose of conveying the same to the United States free of cost, any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, and shall be unable for any reason to obtain a valid title thereto, the Secretary of War may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of War: *Provided,* That all the expenses of said proceedings and any award that may be made thereunder shall be paid by the said person, company, or corporation, to secure which payment the Secretary of War may require the said person, company, or corporation to execute a proper bond in such amount as he may deem necessary before said proceedings are commenced."

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

**§ 593. Condemnation of land in aid of State or
State agency**

Whenever any State, or any reclamation, flood control or drainage district, or other public agency created by any State, shall undertake to secure any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, for the purpose of conveying the same to the United States free of cost, and shall be unable for any reason to obtain the same by purchase and acquire a valid title thereto, the Secretary of the Army may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of the Army: *Provided,* That all expenses of said proceedings and any award that may be made thereunder shall be paid by such State, or reclamation, flood control or drainage district, or other public agency as aforesaid, to secure which payment the Secretary of the Army may require such State, or reclamation, flood control or drainage district, or other public agency as aforesaid, to execute a proper bond in such amount as he may deem necessary before said proceedings are commenced.

(Aug. 8, 1917, ch. 49, § 9, 40 Stat. 267; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Section is from act Aug. 8, 1917, popularly known as the "Rivers and Harbors Appropriation Act of 1917".

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 594. When immediate possession of land may be taken

Whenever the Secretary of the Army, in pursuance of authority conferred on him by law, causes proceedings to be instituted in the name of the United States for the acquirement by condemnation of any lands, easements, or rights of way needed for a work of river and harbor improvements duly authorized by Congress, the United States, upon the filing of the petition in any such proceedings, shall have the right to take immediate possession of said lands, easements, or rights-of-way, to the extent of the interest to be acquired, and proceed with such public works thereon as have been authorized by Congress: *Provided*, That certain and adequate provision shall have been made for the payment of just compensation to the party or parties entitled thereto, either by previous appropriation by the United States or by the deposit of moneys or other form of security in such amount and form as shall be approved by the court in which such proceedings shall be instituted. The respondent or respondents may move at any time in the court to increase or change the amounts or securities, and the court shall make such order as shall be just in the premises and as shall adequately protect the respondents. In every case the proceedings in condemnation shall be diligently prosecuted on the part of the United States in order that such compensation may be promptly ascertained and paid.

(July 18, 1918, ch. 155, § 5, 40 Stat. 911; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Section is from act July 18, 1918, popularly known as the "Rivers and Harbors Appropriation Act of 1918".

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 595. Consideration of benefits in assessing compensation

In all cases where private property shall be taken by the United States for the public use in connection with any improvement of rivers, harbors, canals, or waterways of the United States, and in all condemnation proceedings by the United States to acquire lands or easements for such improvements, where a part only of any such parcel, lot, or tract of land shall be taken, the jury or other tribunal awarding the just

compensation or assessing the damages to the owner, whether for the value of the part taken or for any injury to the part not taken, shall take into consideration by way of reducing the amount of compensation or damages any special and direct benefits to the remainder arising from the improvement, and shall render their award or verdict accordingly.

(July 18, 1918, ch. 155, § 6, 40 Stat. 911.)

CODIFICATION

Section is from act July 18, 1918, popularly known as the "Rivers and Harbors Appropriation Act of 1918".

§ 595a. Compensation for taking or condemnation of property for public improvements; fair market value; partial taking; effective date

In all cases where real property shall be taken by the United States for the public use in connection with any improvement of rivers, harbors, canals, or waterways of the United States, and in all condemnation proceedings by the United States to acquire lands or easements for such improvements, the compensation to be paid for real property taken by the United States above the normal high water mark of navigable waters of the United States shall be the fair market value of such real property based upon all uses to which such real property may reasonably be put, including its highest and best use, any of which uses may be dependent upon access to or utilization of such navigable waters. In cases of partial takings of real property, no depreciation in the value of any remaining real property shall be recognized and no compensation shall be paid for any damages to such remaining real property which result from loss of or reduction of access from such remaining real property to such navigable waters because of the taking of real property or the purposes for which such real property is taken. The compensation defined herein shall apply to all acquisitions of real property after December 31, 1970, and to the determination of just compensation in any condemnation suit pending on December 31, 1970.

(Pub. L. 91-611, title I, § 111, Dec. 31, 1970, 84 Stat. 1821.)

§ 596. Repealed. Pub. L. 91-646, title III, § 306, Jan. 2, 1971, 84 Stat. 1907

Section, Pub. L. 86-645, title III, § 301, July 14, 1960, 74 Stat. 502, declared the policy of Congress with respect to payment of just and reasonable consideration to owners and tenants whose property is acquired for public works projects and payment of a purchase price in negotiation for such property which will consider such congressional policy. See provisions of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, classified to chapter 61 (§ 4601 et seq.) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF REPEAL

Repeal not applicable to any State so long as sections 4630 and 4655 of title 42 are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91-646, set out as an Effective Date note under section 4601 of Title 42, The Public Health and Welfare.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by section 306 of Pub. L. 91-646 as not affected by